

BOARD OF APPEALS CASE NO. 5274

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BEFORE THE

**APPLICANTS: Sherman & Sandra Lupold,
WG Station/Emmorton LLC**

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ZONING HEARING EXAMINER

**REQUEST: Variance to allow less than the
required 1 parking space per 150 square feet of
gross floor area in the B3 District; 3005 Emmorton
Road, Abingdon**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 8/7/02 & 8/14/02

HEARING DATE: September 16, 2002

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Record: 8/9/02 & 8/16/02

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ZONING HEARING EXAMINER'S DECISION

The Applicants, Sherman and Sandra Lupold and Co-Applicant, WG Station/Emmorton LLC, are requesting a variance, pursuant to Harford County Code Sections 267-25A(1) and 267-25D, to allow less than the required one (1) parking space per 150 square feet of gross floor area (72 spaces required, 39 proposed).

The subject parcel is located at 3005 Emmorton Road at the southeast corner of the intersection of Emmorton and Abingdon Roads. The parcel is more particularly identified on Tax Map 61, Grid 1F, Parcel 300. The subject parcel consists of 1.335± acres, is zoned B3/General Business and is entirely within the First Election District.

Mr. John Bessey appeared on behalf of the Applicants and co-Applicant and indicated that he is a developer. The subject parcel is currently the location of an existing building operated by a business known as The Greenery. Proposed at this location is a future Walgreen Pharmacy. The existing parcel will only accommodate 39 spaces. To the rear and side of the building the topography falls away from the existing building. The property is very irregularly shaped and is very small for the size of the proposed building to be located there. The parcel is also subject to double frontage and associated setbacks that further reduce area available for parking. In order to accommodate adequate parking, the Applicants propose to enter into a 75-year renewable lease with the owner of the property next door.

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Parking will be added there to bring the total to Code requirements. The owner of the adjacent property will not sell that and thus the request for the present variance. If approved and constructed the total parking area will be contiguous and patrons will be unable to distinguish the two separate lots – it will look like one contiguous parking lot. The adjacent lot is a through lot with a current retail use. As part of the overall redevelopment of these lots, existing improvements on both lots will be removed and the new Walgreen's with parking on both parcels will be constructed. One of the advantages of the proposed redevelopment is that four current access points on Emmorton Road (Route 924) will be reduced to two and both will be located away from the busy intersection of Emmorton and Abingdon Roads.

The Department of Planning and Zoning recommends approval of the subject request subject to several conditions to which the Applicants' representative agreed.

There were no persons that appeared in opposition to the subject request.

CONCLUSION:

The Applicants and Co-Applicant are requesting a variance pursuant to Harford County Code Sections 267-25A(1) and 267-25D to allow less than the required one (1) parking space per 150 square feet of gross floor area (72 spaces required, 39 proposed).

Harford County Code Section 267-25A(1) provides:

“Off-street parking and loading.

A. Generally.

- (1) No structure shall be erected, substantially altered or have its use changed unless permanent off-street parking and loading spaces have been provided and maintained in accordance with the provisions of this section. The Board may authorize a modification of the parking space requirements if it should find that, in the particular case, the peculiar nature of the use or the exceptional shape or size of the property or other exceptional situation or condition would justify such modification.”

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Section 267-25D provides:

“Parking space requirements. Except as otherwise provided in this Part 1, the following off-street parking space requirements shall apply. In the case of any building, structure or use not specifically mentioned herein, the use that is most similar to the following enumerated uses shall provide the requirement.

**Retail stores, including agricultural sales at roadside stands –
1 per 150 square feet of gross floor area”**

Pursuant to the standard for allowance of modifications to parking space requirements set forth above in Section 267-25A(1), the Hearing Examiner finds that the property is unique, is irregularly shaped, has unusual topography (severe slopes to side and rear) and alone, is small compared to the proposed building size. The addition of the adjoining retail lot to this equation addresses the concerns of the Code, allows sufficient parking and will not result in adverse impacts to surrounding properties or materially impair the purposes of the Code.

The Hearing Examiner recommends approval subject to the following conditions:

- 1. The Applicant provide adequate documentation to the Department of Planning and Zoning in a form satisfactory to the Department demonstrating the inability of the adjoining property to be further developed during the period of the 75 year lease.**
- 2. That the Applicant provide to the Department of Planning and Zoning a fully execute Lease setting forth the 75 year leasehold interest of the Applicants/Co-Applicant.**
- 3. If at any time in the future the lease is invalidated or the use on the subject property changes to something other than Walgreen’s, the properties must be combined, redeveloped to meet all applicable Code requirements for parking and traffic circulation or the new use must reapply for, justify and be granted a new variance.**
- 4. The Applicant obtain any and all necessary permits and inspections.**

Date OCTOBER 16, 2002

**William F. Casey
Zoning Hearing Examiner**